

REMARKS

[0003] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 C.F.R. §1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0004] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-26 are presently pending. Claims amended herein are none. Claims withdrawn or cancelled herein are 1-26. New claims added herein are 27-46.

Statement of Substance of Interview

[0005] The Examiner graciously talked with me—the undersigned representative for the Applicant—on May 15, 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0006] During the interview, I discussed how the claims differed from the cited art, namely Schmidt. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0007] The Examiner was not receptive to the proposals, and I understood the Examiner to indicate that the proposed clarifying claim amendments failed to distinguish over the cited art of record. However, the Examiner indicated that he

would review the cited art more carefully and/or do another search responsive to any amendments presented in writing.

[0008] Applicant herein cancels claims 1-26 and submits new claims 27-46. Applicant submits that the new claims are allowable over the cited art.

Formal Request for an Interview

[0009] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0010] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Formal Matters

[0011] This section addresses any formal matters (e.g., objections) raised by the Examiner.

Declaration

[0012] The Examiner objects to the declaration on the grounds that the original declaration was not in compliance because of the misspelling of the second inventor's name on the second page of the declaration. Applicant asks that the Examiner withdraw this rejection in light of the discussion and agreements reached during the aforementioned interview.

Specification

[0013] The Examiner objects to the paragraph starting at page 1, line 10 the specification for misspelling an inventor's name. Herein, Applicant amends the paragraph, as shown above, to correct the informalities noted by the Examiner.

Drawings

[0014] The Examiner objects to Fig. 10 for misspelling the word "Markup". Herewith, Applicant submits replacement drawings to correct the informalities noted by the Examiner.

Substantive Matters

Claim Rejections under §§ 102 and/or 103

[0015] Claims 1-8, 12, 15, 16, 18-22 and 24-26 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,546,554 to Schmidt et al. (hereinafter "Schmidt").

[0016] Claims 9-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmidt in view of U.S. Patent No. 6,496,979 to Chen et al (hereinafter "Chen").

[0017] Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmidt in view of U.S. Patent No. 6,931,546 to Kouznetsov et al. (hereinafter "Kouznetsov").

[0018] Claim 14 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmidt in view of U.S. Patent Publication No. 2002/0104015 to Barzilai et al. (hereinafter "Barzilai").

[0019] Claim 17 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmidt in view of Kouznetsov and in further view of Barzilai.

[0020] Claim 23 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Schmidt in view of U.S. Patent No. 5,388,211 to Hornbuckle (hereinafter "Hornbuckle").

[0021] In light of the cancellation of these claims presented herein and the discussion with the Examiner during the Examiner interview, Applicant submits

that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

New Claims

[0022] Claims 27 -46 are new claims. Independent claims 27, 45 and 46 are application program interface (API) claims similar in scope to previously presented claim 1 that has been canceled. Each of the independent claims is fully supported by the specification and no new subject matter has been introduced.

[0023] Claims 28-44 are dependent claims that are similar in scope to the previously presented dependent claims. As such, each dependent claim is fully support by the specification and does not introduce new subject matter.

Differences

The Application

[0024] The present application provides a system and method for progressively installing a software application so a user may begin to interact with the application immediately.

The Schmidt Reference

[0025] Schmidt generally describes a system that receives, installs and launches application from a browser independent of the browser manufacturer.

The Chen Reference

[0026] Chen generally describes a system and method for creating an application setup package for installing application programs on personal mobile computing devices.

The Barzilai Reference

[0027] Barzilai describes a system and method to provide comprehensive support for setting and enforcing variable privacy policies across an enterprise which establishes and posts privacy policies on their website.

The Kouznetsov Reference

[0028] Kouznetsov describes a system and method for providing application services with controlled access into privileged processes.

The Hornbuckle Reference

[0029] Hornbuckle generally describes a method and apparatus which remotely controls and monitors the use of computer software.

With Reference to 35 U.S.C. § 102(e) Rejection

[0030] As each of the new independent claim is similar in scope to previously rejected claim 1, which was rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,546,554 to Schmidt. The Applicant respectfully traverses these rejections as Schmidt does not disclose each of the claim elements. In particular, the following element (in particular, the emphasized text) from claim 27

is not disclosed (each of the remaining independent claims having a similar element):

enabling the application to be installed on the client computing system, wherein during the enabled installation, **the application is available for use while being installed.**

[0031] Schmidt does not disclose an application program interface that enables an application to be installed on the local computing system without a dedicated installation phase during which the application is unavailable for use. Instead, Schmidt discloses eliminating a typical installation step required when dealing with native applications. Schmidt is only eliminating a typical installation step, but not the installation phase. Schmidt discloses that the application must still be installed and further that the user is only able to interact with the application once it has been installed and launched.

Once an application installation and launching process has completed, at step 760, the user interacts with the application once it has launched. From a user perspective, the user may notice that the application will typically be displayed in a different window than the browser. (Column 14, lines 16-21).

[0032] As can be seen, Schmidt does not disclose that the application is available during the installation phase. Instead, Schmidt directly teaches that the application is only available after the installation and loading of the application. As such, Schmidt does not disclose each element of the independent claims.

Conclusion

[0033] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 2007.07.06

By: _____

Jason F. Lindh
Reg. No. 59090
(509) 324-9256 x215
jason@leehayes.com
www.leehayes.com

My Assistant: Carly Bokarica
(509) 324-9256 x264
carly@leehayes.com